

## REMARKS

The Office Action mailed August 18, 2009 has been received and reviewed. Claims 25-44 are in the case. Claims 25-44 stand rejected under 35 U.S.C. § 112, first paragraph. Claims 25-44 stand rejected under 35 U.S.C. § 103(a).

For the reasons set forth below, claims 25-44 are believed to be in condition for immediate allowance. Favorable reconsideration of the application in view of the following remarks is, therefore, respectfully requested.

### **Rejection of Claims 25-44 Under 35 U.S.C. 112, First Paragraph**

Claims 25-44 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action states that the examiner has been unable to locate clear support for the following claim language:

extracting, by the human harvester, from the at least one first publication a first date, first time, and first description characterizing the at least one first event;

entering, by the human harvester, the first date, first time, and first description into a harvester interface provided by the harvesting module;

storing, by the harvesting module after the entering, the first date, first time, and first description within the database; or

typing in, by the human harvester, the first location into harvester interface.

In asserting this rejection, the Office Action cites to various paragraphs within Applicant's specification. Based on the content of those paragraphs (and the underlining added thereto by the examiner), it appears that in trying to locate support for the above quoted claim language, the examiner was searching for the words "person," "people," and "human." However, in Applicant's specification, Applicant refers to the claimed "human harvester" simply as a

“harvester.” Applicant asserts that several portions of the specification adequately disclose the activities of such “harvesters” (and their interaction with mining and harvester modules of the software). Those portions of the specification provide clear support for the claim language quoted above.

For example, paragraphs 0033, 0071– 0075, 0104–0106, 0120, and 0194 of Applicant’s specification as published disclose how harvesters receive, edit, and submit published event data. Paragraph 0058 describes the kind of data (including date, time, and other descriptive information) processed by harvesters and stored within a database of the system. Paragraph 0072 states that harvesters can input information into a computer system by “any suit means.” Paragraph 0092 specifically states one such suitable means is via a keyboard, which inherently requires typing.

In view of the foregoing, Applicant asserts that the specification as filed provides clear support for the claim language quoted above. Reconsideration is, therefore, respectfully requested.

#### **Rejection of Claims 25-44 Under 35 U.S.C. §103(a)**

Claims 25-44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Chu in view of Mathai, Baidya, <http://dictionary.reference.com/browse/event> (hereinafter “Dictionary”), and Jaeger. However, to establish a *prima facie* case of obviousness, the Office Action must first find all of the claimed elements, and then provide clear articulation of the reason(s) why the claimed invention would have been obvious. *See* MPEP 2143. With respect to claims 25-44, the Office Action does not do this.

Specifically, Applicant asserts that the cited combination is improper because the Office Action relies on information gleaned solely from Applicant's disclosures. The MPEP states that "impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." See MPEP §2142 (emphasis added). "Any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper." See MPEP §2145(X)(A) (emphasis added).

Chu, Mathai, Baidya, Dictionary, and Jaeger are unrelated, disparate references. None addresses the problem addressed by another. None addresses the problem sought to be solved by Applicant. The references neither logically nor obviously add together to produce Applicant's claimed invention. Accordingly, in claiming to articulate the present invention, the Office Action resorted to impermissible hindsight based on Applicant's disclosures to pick and choose structures of the various references, re-engineer those structures in some manner to resemble Applicant's claimed structures, then combine the re-engineered structures.

For example, as acknowledged by the Office Action on page 14, the combination of Chu, Mathai, and Baidya does not teach the actions of a harvester required by Applicant. In an attempt to remedy this, the Office Action asserts that it would be obvious to add in the teachings of Jaeger. However, while Jaeger teaches manual data entry for asset management, the reference does not teach the extraction and entry of a date, time, and description as required by Applicant's claims. Accordingly, the Office Action asserts that it would have been obvious to re-engineer

Jaeger to handle such information. It is improper for the Office Action to essentially begin with a clean sheet of paper and re-build Jaeger's structures to fit Applicant's claims.

That is, for each reference relied upon, the Office Action first changed the structure taught by the reference. Then the Office action combined those changed structures. This is classical, impermissible hindsight, still not permitted, even after the *KSR* case. Moreover, it is evidence that, in reality, the Office Action has not even found in the prior art the required elements recited by Applicant's claims.

For example, Applicant's claims require presenting, by a harvesting module, the list to a human harvester. As appreciated, "the list" is required by Applicant to be a list listing a publication, published on a computer network, and containing calendar information describing an event. Thus, according to the explicit recitations of the Applicant's claims, the harvesting module must present to a human harvester a list listing a publication published on a computer network and containing calendar information describing an event. Applicant finds no such list being presented to a human harvester in the combination cited by the Office Action.

Moreover, the Office Action attempts to justify the combination of changed elements with "mere conclusory statements." Such statements are forbidden under the *KSR* analysis. They do not discuss nor even address who a person having ordinary skill in the art (PHOSITA) would be. They do not begin with the prior art structures and then progress through an obvious route to connect those prior art structures to become Applicant's recited structure. Instead they rely on the examiner's initial modification of structures having no relation to one another and no relation to the structures of, or problems solved, by Applicant.

In view of the foregoing, Applicant asserts that the rejection lacks the required structures in the prior art and lacks a proper basis for changing the structures to meet the requirements of

individual elements of Applicant's claims. Finally, the reasons given are mere conclusory statements, jumping to the conclusion they are required to reason through. It is improper to announce the destination by a mere conclusory statement. What is required and absent is the logical reasoning explaining WHY it would be obvious to traverse the gap between the prior art and Applicant's recited, claimed structures. Thus the rejection is improper as not being supported by the required structures nor the required reasoning. Reconsideration is, therefore, respectfully requested.

In the event that the examiner finds any remaining impediment to the prompt allowance of any of these claims, which could be clarified in a telephone conference, the examiner is respectfully urged to initiate the same with the undersigned.

DATED this 18<sup>th</sup> day of February, 2010.

Respectfully submitted,

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